



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WAGGONER CARR
ATTORNEY GENERAL**

December 8, 1964

Honorable Henry Wade
District Attorney
Records Building
Dallas, Texas

Opinion No. C- 356

Re: Assessment of property in
Fresh Water Supply District,
fees of Assessor, filing and
prosecuting suits for delin-
quent taxes in said district.

Dear Mr. Wade:

The following pertinent facts appear in your letter re-
questing an opinion of this office on problems arising in the
Fresh Water Supply District No. 18 of Dallas County, Texas,
to wit:

There has been no active management of the
affairs of said District for several years. The
revenues of said District have been insufficient
to meet the payments of principal and interest
due on outstanding bonds of said district. The
District did not have an acting Board of Super-
visors.

Pursuant to the provisions of Article 7959a
of Vernon's Civil Statutes, a petition was filed
by interested bondholders of said District, with
the Commissioners Court of Dallas County, Texas,
for the appointment of three disinterested Com-
missioners, to constitute the Board of Supervisors
of Dallas County Fresh Water Supply District No.
18, and to further constitute the Board of Equali-
zation of such District.

That on October 22, 1964 the Commissioners
Court of Dallas County, Texas, appointed three
disinterested Commissioners to constitute the
Board of Supervisors and the Board of Equali-
zation of Fresh Water Supply District No. 18 of
Dallas County, Texas, and further appointed the

County Tax Assessor-Collector of Dallas County,
Texas as ex-officio Tax Assessor and Collector
of said District, as provided by law.

From the above facts arise your four questions, namely:

"(1) May the Dallas County Tax Assessor-Collector legally use the assessments levied for State and County tax purposes on property within the limits of Dallas County Fresh Water Supply District No. 18, as the assessed value of said property for the purpose of collecting taxes for the said Fresh Water Supply District No. 18 without the approval of the District's Board of Equalization which has not met in several years?"

Article 7945, Vernon's Civil Statutes provides for the assessment of all the taxable property, both real, personal and mixed in the district following the voting of bonds in such district, and providing for such assessments annually thereafter.

Article 7947, Vernon's Civil Statutes sets forth the manner of rendering property for taxation in such district and the time therefor.

It is, therefore, our opinion that a separate value assessment must be made for properties located within Fresh Water Supply District No. 18, and the Board of Equalization must approve said appraisements.

"(2) What fee may the Dallas Tax Assessor-Collector charge for the roll preparation and collection of taxes for Dallas County Fresh Water District No. 18?"

The bondholders followed the procedure outlined in Article 7959a, in securing active supervisors, who also act as the Board of Equalization, and the Tax Assessor-Collector

of Dallas County was appointed ex-officio Tax Assessor and Collector of such District. By the express terms of this Article:

" . . .such County Tax Assessor and County Tax Collector and/or County Tax Assessor-Collector shall perform all of the duties now imposed by law and by the provisions of said Chapter 4, Title 128, of the Revised Civil Statutes of Texas, (1925), upon the Tax Collector and Assessor for such Fresh Water Supply District, and shall receive the same compensation for his or their services as provided for in said Chapter 4 of Title 128 of said Revised Civil Statutes of Texas (1925)."
(Emphasis Added)

Article 7898, Vernon's Civil Statutes is a part of Chapter 4, Title 128 of the Revised Civil Statutes of Texas, (1925), and it covers the fees of the officers of such District. It specifically provides:

"For all services performed by any officer or individual under this law, the compensation for which is not expressly provided for, such officer or individual shall receive the same compensation as he would for like service if rendered as an officer for the county . . ."
(Emphasis Added)

By the express terms of the above statutes the compensation for services performed by the Dallas County Tax Assessor-Collector for the Fresh Water Supply District No. 18 would be as therein provided.

"(3) Under the statutes, who is charged with the responsibility for filing and prosecuting suits for delinquent taxes due Fresh Water Supply District No. 18?"

Article 7959, Vernon's Civil Statutes, provides:

"All of the provisions of Chapter 2 of this title relating to the lien, penalties, interest and costs, preparation and publication of the delinquent tax roll, suit for collection and foreclosure proceedings, attorney's fees and fees of officers in such proceedings for the collection of delinquent taxes, and redemption of lands before sale, shall apply to the collection of such taxes in districts operating hereunder."

In Chapter 2 of Title 218, Vernon's Civil Statutes, appear the following articles:

"Article 7683. The attorneys representing such district in all suits against delinquent taxpayers that are provided for in this Act shall receive for such services such compensation to be paid out of delinquent taxes collected . . ."

"Article 7683a. When a water improvement district shall employ an attorney to collect delinquent taxes, the fees of said attorney as fixed under the provisions of Section 47, Acts of 1917, by the board of directors shall be added to such taxes to the extent of not to exceed 10% of the amount of such delinquent taxes as collection fees and may be recovered in the judgment rendered in any such tax suit. . . ."

It is the opinion of this office that the Water Supply District would be authorized to employ an attorney to file and prosecute suits for the collection of delinquent taxes in such District.

"(4) What is the responsibility of the County Auditor for auditing the financial transactions of Fresh Water Supply District No. 18?"

Article 1667, Vernon's Civil Statutes provides:

"In all counties which have or may have a County Auditor and containing a population of one hundred ten thousand (110,000) or more, as shown by the preceding Federal Census, . . . and in which counties there exists or in which there may be created any improvement, navigation, drainage, or road or irrigation district, or any other character of district having for its purpose the expenditure of public funds for improvement purposes, or for improvements of any kind whether derived from the issuance of bonds or through any character of special assessment, the County Auditor shall exercise such control over the finances of said district as hereinafter provided."

Article 1670, Vernon's Civil Statutes specifically sets forth the duties of a County Auditor in counties with a population of 330,000 or more.

It is the opinion of this office that the duties of the County Auditor of Dallas County, Texas, relating to the Fresh Water Supply District No. 18 are governed by the provisions of the above statutes.

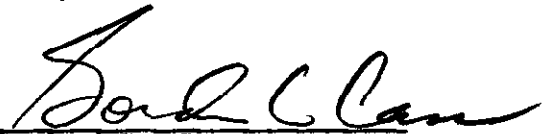
SUMMARY

The Tax Assessor-Collector of Dallas County who was appointed ex-officio Tax Assessor-Collector of Fresh Water Supply District No. 18 of Dallas County, Texas, must follow the provisions of Articles 7945 and 7947, Vernon's Civil Statutes in assessing

the property of such district for taxes; for such services he is entitled to the same fees of office as he receives for performing a like service for the county. The Board of Supervisors are authorized to employ an attorney of their choice to file and prosecute suits for delinquent taxes due said district. The County Auditor of Dallas County is required to audit the financial transactions of such district.

Yours very truly,

WAGGONER CARR
Attorney General of Texas

By: 
Gordon C. Cass
Assistant

GCC/d1

APPROVED:
OPINION COMMITTEE

W. V. Geppert, Chairman
Cecil C. Rotsch
W. E. Allen
Brady Coleman
George Black

APPROVED FOR THE ATTORNEY GENERAL
By: Stanton Stone